HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

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WRIT PETITION No.15152 of 2006

Between:

Kasireddy Bhaskar Reddy

... Petitioner

AND

Principal Secretary to Government,
Government of Andhra Pradesh,
Hyderabad.

and others.

... Respondents

; O R D E R :

Counsel for the petitioner : party-in-person

Counsel for respondents 1,3 to 5 : G.P.for Revenue.
Counsel for respondents 2,8 & 9 : G.P. for Home
Counsel for respondent No.7 : G.P. for Medical & Health
Counselfor respondent No.6 : Sri Polisetty Radakrishna,
Standing Counsel,
Counsel for respondents 10 & 11 : Sri S.Ramchandra Rao,
Senior Counsel assisted
by Sri K.R.Prabhakar.

Dated: 12th February, 2007

Per C.V.NAGARJUNA REDDY, J.

A letter dated 3.7.2006 by one Kasireddy Bhaskar Reddy, son of late

K.Megha Reddy who claimed to be the Chairman, Joint Council of Chandanagar Colonies Welfare Association (hereinafter referred to as 'the representationist') was treated by this Court as a writ petition on Public Interest. Through the said letter, the representationist sought for the following relief:

"1. Cancel the G.O.Rt.No.1251 dated 21.10.2002, Home (General-A) Department, Government of Andhra Pradesh.

2. Cancel the license of the said theaters.

3. Remove all illegal encroachments in the F.T.L. area of the Miyapur patel Cheruvu tank.

4. Take action on all the officials who have given N.O.C.

5. Pass such other order or orders, this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

In the letter petition though the representationist made allegations relating to encroachments of tank area of as many as 11 tanks, from the relief claimed by the petitioner as extracted above and the contents of the letter mainly revolved around construction of two cinema theatres by respondents 10 and 11 in survey No.70 of Miyapur village.

In his letter petition the representationist alleged that out of an extent of Ac.38.20 guntas of Patel Cheruvu of Miyapur village, an extent of Ac.10.00 is already encroached by filling the edges of the tank with morum soil and constructing bunds by digging with granite blocks and concrete. It is stated in the letter that respondents 10 and 11 approached the Joint Collector, Ranga Reddy district who is a licensing authority for grant of license to construct and run two cinema theatres, namely; 1) M/s.Narsimha 70 mm A/c and 2) M/s.Krishna 70 MM A/c respectively and that through two separate letters dated 6.7.2002 the Joint Collector, Ranga Reddy rejected the two applications; that respondents 10 and 11 approached the State Government by filing appeals against the orders of rejection passed by the Joint Collector, Ranga Reddy district. It is further stated that the main ground of rejection by the Joint Collector was that a major portion of the land on which the construction of cinema theatres was proposed falls within the Full Tank Level (FTL) and that HUDA in its letter dated 9.4.2002 objected to the grant of NOC and the license; that despite the objections raised by the HUDA and the

letter dated 30.12.2002 (in para-14 the date is mentioned as 30-01-2001) of the Mandal Revenue Officer, Serilingampally, the Government of Andhra Pradesh issued G.O.No.1251 Home (General-A) Department dated 21.10.2002 granting No Objection Certificate (NOC) for construction of two permanent cinema theatres in the name and style of M/s.Narsimha 70 MM A/c and M/s.Krishna 70 MM A/c. It is specifically averred in the letter petition that the NOCs given by the Revenue Divisional Officer, Chevella Division, the Commissioner, Serilingamapally, the District Medical and Health Officer Ranga Reddy District and the Superintendent of Police, Ranga Reddy district for construction of cinema theatres are not sustainable as all these officials are aware of the fact that the lands on which the theatres are proposed form part of Patel Cheruvu tank.

After giving notices to the concerned parties, this Court by an order dated 25.7.2006 granted interim mandatory direction to respondents 10 and 11 not to proceed with the execution of any work including screening of films until further orders. In response to the notices issued by this court respondents 1, 3 to 5 filed a common counter affidavit. Respondents 2, 6 and 8 filed separate counter affidavits apart from respondents 10 and 11 filing an affidavit dated 14.8.2006, a counter affidavit dated 22.11.2006 and an additional counter affidavit dated 26.12.2006.

Sri L.Premchandra Reddy, District Collector, Ranga Reddy who had sworn to the counter affidavit filed on behalf of respondents 1, 3 to 5 stated that Patel Cheruvu situated in survey No.70 of Miyapur village with a total extent of Ac.38.20 guntas is classified as Government Shikam land; that the adjoining land situated at surrounding Patel Cheruvu in survey Nos.71/P, 72/P, 87, 88, 89 of Miyapur village and survey No.2/P of Ramnnaguda village are all patta lands owned by private persons. It is further stated that some of these patta lands fall within the FTL of Patel Cheruvu; that in these private lands, the owners have right to irrigate their lands but during the submergence of the land in rainy season the construction activity of the land forming part of FTL area is prohibited. However cultivation is permitted when the lands are not under submergence and that thus the land holders have limited rights to enjoy the land and to raise the crop when the lands are not under submergence. It is further stated that in the year 2000, a

team of revenue and irrigation officials conducted joint inspection of Patel Cheruvu, fixed FTL of the tank and have drawn up sketches; that according to the said report the following lands fell within FTL:

Name of the Tank	Sy.No.	Extent Acs.Gts	Classification	Name of the village
Patel Cheruvu	70	38.20	Govt.Shikam	Miyapur
"	71/P	1.20	Patta	Miyapur
"	72/P	0.12	Patta	Miyapur
"	87	1.00	Patta	Miyapur
"	88	0.11	Patta	Miyapur
"	89	1.31	Patta	Miyapur
"	2/P	1.34	Patta	Ramannaguda

Another exercise was undertaken in the year 2006 by the Engineers of Irrigation Department for demarcation of FTL of Patel Cheruvu and the revised demarcation made included the following lands as FTL:

Name of the Tank	Sy.No.	Extent Acs.Gts	Classification	Name of the village
Patel Cheruvu	70	38.20	Govt.Shikam	Miyapur
"	71/P	0.23	Patta	Miyapur
"	72/P	0.12	Patta	Miyapur
"	87	1.00	Patta	Miyapur
"	88	0.11	Patta	Miyapur
"	89/P	0.06	Patta	Miyapur
"	2/P	1.34	Patta	Ramannaguda

It is averred in the counter affidavit that while Ac.1.20 guntas of land in survey No.71 was shown within the FTL in the year 2000, only 0.23 cents is shown in the FTL fixed in the year 2006. The Collector also referred to other encroachments noticed in respect of other tanks and they are shown in annexure in the counter affidavit with an assurance that steps are being taken to see that the encroachments mentioned therein are removed by compelling the patta holders to

remove constructions put up on the FTL areas. In para-6 of the counter affidavit the District Collector stated that the Joint Collector, Ranga Reddy district through his proceedings dated 16.7.2002 and 26.7.2002 rejected the request of the respondents 10 and 11 to grant NOC for construction of theatres and he also admitted that Mandal Revenue Officer, Serilingampaly in his letter dated 30.10.2001 stated that the proposed theatres fall under the major operation of Patel Cheruvu FTL limits and that the appeal/revision filed by respondents 10 and 11 before the Government of Andhra Pradesh was allowed by order dated 21.10.2002 in G.O.Rt.No.1251 by granting NOC for construction of two theatres in plot Nos.4, 5, 6 and 1, 2, and 3 respectively in survey No.71 of Miyapur village. It is further stated that the Revenue Divisional Officer, Chevella granted NOC earlier considering the title and other aspects, without considering whether or not the construction would be within FTL limits.

In the counter affidavit filed by Special Chief Secretary to Government, Home Department on behalf of respondent No.2 it is submitted that on considering the appeal filed by respondents 10 and 11 against the rejection of NOC by the Joint Collector, Ranga Reddy district, the Government issued G.O.1251 dated 21.10.2002 granting NOC for construction of two theatres, i.e., M/s.Narsimha 70MM A/c. and M/s.Krishna 70 MM A/c with further directions to submit the relevant documents as required by the District Collector vide his communication dated 2.1.2002 and 2.11.2002 under Rule 9(a) of Andhra Pradesh Cinema (Regulation) Rules 1970. The State Government after receipt of the documents referred the same to the Inspecting Officers, i.e., Revenue Divisional Officer, Chevella Division, Executive Engineer (R&B) Roads Division, The Deputy Electrical Inspector, RR (East) Sub-Division and the District Medical and Health Officer, Ranga Reddy for enquiry under Rule 9 (b) of the Rules with a request to them to send their reports, vide two letters dated 5.12.2002. It is further stated that all the aforementioned authorities have recommended for grant of NOC for construction of two theatres and after considering the NOCs., the Government granted permission to construct the theatres under Rule 9 (b) of the Rules on an extent of 2353 square yards of land in survey No.71 of Miyapur village subject to 36 conditions imposed by the Inspecting Officers in their respective proceedings. It is further mentioned in the counter affidavit that while granting NOCs for

construction of theatres the government has taken into consideration grounds of appeal and also the reports of Municipal Commissioners, Serilingampally, Revenue Divisional Officer, Chevella, Superintendent of Police, Ranga Reddy district and the District Medical and Health Officer, Ranga Reddy who recommended for issue of NOC and the further fact that respondents 10 and 11 are absolute owners of plot Nos.1 to 6 of survey No.71 of Miyapur subject to the condition that respondents 10 and 11 shall follow Clause-I (2) (3) of Appendix-I of Andhra Pradesh Cinema (Regulation) Rules 1970 which reads as under:

> *" (2) The site shall have such soil and sub-soil which would not be saturated with water or such level or location which would not admit storm-water draining into it:*
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> *Provided that where the site does not satisfy the above requirements, arrangements shall be made to effectively prevent dampness rising in the floor or walls or storm-water flooding the site and where the level of the site has to be raised, it shall be raised to an adequate height by depositing layers of sand and non-putrescible material.*
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> *(3) The site shall not be within 15 metres of any tank, reservoir, watercourse, River, fresh water channel or well:*
>
> *Provided that where the site does not satisfy the above requirements, such measures shall be taken as may be necessary or as the licensing authority may direct so as to prevent any contamination or any risk of the drainage of the proposed building passing into the tank."*

Sri C.Rama Krishna Rao, Commissioner of Serilingampally Municipality, who is respondent No.6, in his counter affidavit inter alia stated that the municipality vide its two letters dated 24.11.2001 and 3.11.2001 issued NOCs for construction of the two theatres, namely, M/s.Krishna 70 MM A/c and M/s.Narsimha 70 MM A/c in survey No.71 of Miyapur village; that while MRO/EE Irrigation Department have to fix FTL no report was available with the office of the municipality relating to FTL of Patel Cheruvu and that as respondents 10 and 11 have illegally started construction of permanent cinema theatres by raising columns without obtaining prior technical approval from the competent authority, namely, Vice Chairman, HUDA as required under Section 13 & 14 of A.P.Urban Areas (Development) Act 1975, action under Section 209 to 211 and 216 of A.P. Municipalities Act 1965 was initiated by issuing a show cause notice dated 25.11.2005 and 22.3.2005 and that respondents 10 and 11 filed W.P.No.6796 of 2005 against the said notice; that this Court while admitting the writ petition

granted interim suspension of the said two notices and that the said writ petition is still pending. It is further stated that no permanent cinema theatres are in existence within the radius of 2 kms from the proposed site.

Respondent No.8, Commissioner of Police, Cyberabad filed counter affidavit in which it is stated that as major portion of the land on which theatres are proposed to be constructed fall within FTL limit NOC was rejected by his office vide two memos issued on 16.7.2002 and that however, the Government issued G.O.1251 dated 21.10.2002 with a direction to grant construction permission for the two theatres and after due examination of traffic conditions NOC was issued for construction of theatres. It is further stated that the request of respondents 10 and 11 to grant permission for screening of the films was not accorded as yet in view of the legal opinion given by the Government Pleader concerned during the pendency of writ petition No.6796 of 2005.

Respondents 10 and 11 filed a counter affidavit in which it is mentioned that the letter petition was sent by the representationist in the guise of public interest litigation at the instance of an owner of a rival cinema theatre whose name was mentioned in para-15(c) of the letter petition (Sai Ranga) and that therefore the petition is liable to be dismissed in limini. Respondents 10 and 11 denied the allegation that they encroached the government land in survey No.70 of Miyapur village. They have stated that they purchased plot Nos.1 to 6 in survey No.71 of Miyapur village by way of registered sale deeds in June 1983 and that they have purchased houses existing on the said land in the year 1983 and with the permission granted by the Serilingampally municipality they have set up a Drum-Mix Asphalt plant on the said land which was under operation for almost a decade and that thereafter they have decided to construct cinema theatres and applied for NOC on 10.11.2001. Though several authorities recommended NOC, the Joint collector, Ranga Reddy refused the same in view of the objections raised by HUDA and the MRO on the ground that major portion of the land falls within the FTL limit. However, in the appeal/revision filed by them Government granted NOC vide G.O.No.1251 dated 21.10.2002 and following the same the Joint Collector, Ranga Reddy District after calling for remarks of all the authorities concerned for granting permission for construction of said two theatres issued

proceedings dated 3.2.2006 and 6.2.2006 respectively. In para-5 of the counter affidavit they have stated that they started construction of theatres after obtaining loan of Rs.100 lakhs for each of the two theatres in March 2004 and that they have spent huge amounts by borrowing money and also from their savings and the construction of theatres was complete in all respects in January 2006. The respondents 10 and 11 then applied to the Commissioner of Police, Cyberabad on 10.2.2006 for grant of 'D' Form license to screen films in accordance with the A.P.Cinema (Regulation) Act. All through the representationist never raised any objection. It is further stated that the inspection and survey of land showed that an extent of 23 guntas of Patta land in survey No.71/P, 72/P, 87 to 89/P of Miyapur village and survey No.2/9, 3 and 4 of Ramannaguda village fall within the FTL of Patel cheruvu. The respondents 10 and 11 described the contents of M.R.Os letter dated 30.12.2002 (30.10.2001) as factually incorrect. It is also stated that the licensing authority has taken every care while granting permission with reference to the drainage and a specific direction was given that all drain should be attached underground to the septic tank. It is further stated that no sewage is being let out from the theatre compound into the Patel Cheruvu tank and no pollution is being caused to the said tank. In para-9 it is alleged that while the NOC was issued about three years back and when the construction of theatres was completed in accordance with the sanctioned plan of the licensing authority and when they were ready for screening of the films, the representationist filed this writ petition with mala fide intention by specifically attacking the two theatres in order to benefit the nearby existing theatre.

The hearing of this case underwent quite a number of adjournments at the instance of the Government Pleaders appearing in the case. On certain occasions, the case was adjourned due to absence of the representationist. On 13.12.2006, after going through the record of the case, we have taken note of the representation made by the learned counsel for respondent Nos.10 and 11 that the construction of the theatres was completed four years prior to the sending of letter petition by the representationist and his oral undertaking given on behalf of respondent Nos.10 and 11 that his clients are ready and willing to raise the protection wall to prevent the water of Patel Cheruvu entering into the theatre complex, we adjourned the case for two weeks with a direction to send a copy of

the order passed by us on 13.12.2006 to the representationist to enable him to file further affidavit and directing notice to be served on him indicating therein that he can appear in-person or through an advocate on 29.12.2006. On 29.12.2006, as the office report had shown that the notice sent to the representationist was not received back after service, a fresh notice was ordered to him for 22.01.2007. On 22.01.2007, the representationist appeared in-person and requested for time to file additional papers. Accordingly, the case was adjourned to 12.02.2007. The record shows that on 22.01.2007 the representationist filed an affidavit along with certain photographs and newspaper reports. On 12.02.2007, when the case was taken up in the pre-lunch session, the representationist was not present and therefore the case was passed over to the post-lunch session and the representationist was absent even when the case was called after lunch. The hearing of the case was therefore closed and the petition was dismissed indicating reasons to be dictated later.

We have carefully gone through the entire material on record. From the various averments contained in the counter-affidavits filed by different respondents and the material available on record, it is clear that the area on which the two theatres, namely, 1) M/s. Narsimha 70 MM A/c and 2) M/s. Krishna 70 MM A/c are constructed comprised in plot Nos. 1, 2, 3 and 4, 5, 6 respectively of Sy.No.71 of Miyapur Village, Serilingampally Mandal, Ranga Reddy District. Respondent Nos.10 and 11 in their affidavit claimed that these six plots situate in Sy.No.71 of Miyapur Village were purchased through registered sale deeds in the month of June 1983 along with the houses on the land and certain sale deeds are also filed in support of their contention. It is however the pleaded case of respondent Nos.10 and 11 that these plots were never within the FTL of Patel Cheruvu and in fact before they sought for NOC for establishment of the two theatres, they have set up and were running a drum mix asphalt plant after obtaining permission on 28.10.1993. In considering the question whether these plots of respondent Nos.10 and 11 were part of FTL, the counter-affidavit of Sri L.Premchandra Reddy, District Collector, Ranga Reddy is relevant. It is stated by the District Collector that apart from the extent of Acs.38.20 guntas situated in Sy.No.70, which was a Government Shikam Land, an extent of Ac.1.20 guntas in Sy.No.71/P of Miyapur village with which we are now concerned was also

included in the FTL of Patel Cheruvu following the joint inspection made by the Revenue and Irrigation officials in the year 2000.

It is however evident from the averments of para 5 of the counter-affidavit that when a further exercise was undertaken to demarcate the FTL of Patel Cheruvu in the year 2006, only an extent of Acs.0-23 guntas was shown to be falling within FTL. The probable reason of diminution of this extent was mentioned as raising of the level of the land in respect of Acs.0-37 guntas of land in order to make it fall outside the submergence area. From the admitted fact that the land of respondent Nos.10 and 11 is comprised in Sy.No.71, and in the absence of any substantiation on the part of respondent Nos.10 and 11 except the assertion that their land falls outside FTL of Patel Cheruvu, we are of the prima facie opinion that in the year 2000 at least a part of land on which the respondent Nos.10 and 11 proposed construction of theatres was included in the FTL area and in order to construct theatres they would have probably raised the level of the land so that by the time a fresh exercise was undertaken in the year 2006, the area on which the theatres are constructed would have got excluded from the FTL. These of course are our tentative findings based on the material available before us. Unless, evidence is recorded in a properly constituted proceedings, no conclusive findings can be recorded on this aspect. That before the theatres were constructed, the major portion of the site on which the theatres were proposed fell within the FTL is supported by the letter dated 09.02.2005 addressed by the Hyderabad Urban Development Authority to the Collector, Ranga Reddy, which reads as follows:

> "Your attention is invited to the reference cited. In this regard it is to inform that the site under reference was inspected by the officials of this authority and found that the part of the site is covered with tank area.
>
> As per FTL information furnished by the M.R.O., Serilingampalli Mandal vide his letter No.B/1335/2000, dated 30.10.2000, the Sy.No.71(p) of Miyapur (V) is falling in Miyapur Patel Cheruvu tank to an extent of 1.20 Gts., out of total extent of 2 Ac. 8 Gts. A major portion of the site is also find to be falling in FTL., wherein no development/building activity is to be allowed.
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> In view of the above, the NOC for construction of cinema theatre can not be considered under Section 14 of A.P. U.A. (Dev)

Act, 1975."

On the basis of this letter, the Joint Collector, Ranga Reddy, rejected the application for grant of No Objection Certificate. By its order dated 21.10.2002, the Government however exercising its appellate power under Andhra Pradesh Cinema (Regulation) Act 1955 read with Andhra Pradesh Cinema (Regulation) Rule 1970 set aside the orders of the Joint Collector and directed grant of No Objection. A reading of the said order indicates that it has recorded ground Nos.I to IX raised by the appellant questioning the rejection orders of the Joint Collector. Ground No.IV pertains to the letters dated 09.04.2002 sent by HUDA to the Joint Collector about the land in dispute being included in FTL of Patel Cheruvu. In para VIII of the order, the Government stated as under:

> "The inspecting officers of Commissioner of Serilingampally Municipality, Revenue Divisional Officer, Chevella Division etc., have not pointed out anything about submergency of land in Patel Cheruvu except Vice Chairman, HUDA and they have recommended to grant N.O.Cs. to the applicants."

We are thoroughly dissatisfied with the manner in which the Government has disposed of the case. When a serious objection was raised by a highly placed statutory body such as HUDA on the basis of the report of the Mandal Revenue Officer concerned, the least that was expected from the Government was to ascertain the fact whether any part of the land on which the theatres were proposed fell within FTL of Patel Cheruvu. It has allowed itself swayed away by the reports of the Commissioner of Serilingampally Municipality, the Revenue Divisional Officer, Chevella Division etc. It is significant to notice that the District Collector, Ranga Reddy in his affidavit stated in categorical terms that the then Revenue Divisional Officer, Chevella, who recommended for grant of No Objection Certificate has not considered whether the site on which the theatres were proposed fell within the FTL or not. The Commissioner of Serilingampally Municipality whose No Objection Certificate was also made a basis for the Government to allow the appeal, in his counter-affidavit feigned ignorance about the objections raised by HUDA on the basis of the information furnished by Mandal Revenue Officer, Serilingampally. In para 12, he mentioned as under:

"It is respectfully submitted that in reply to para 15.II(b) of the affidavit, I submit that this respondent Municipality has issued no objection certificate for issuance of NOC for the proposed construction of permanent cinema theatre by name and style M/s. Krishna 70 MM A/c in plot Nos. 1, 2 and 3 in Sy.No.71 of Miyapur Village vide Lr.No.G/4067/2001, dated 24.11.2001 and also issued No Objection Certificate for issue of NOC vide Lr.No.G/4068/2001, dated 24.11.2001 for M/s. Narasimha 70 MM A/c Theatre in plot Nos.4, 5 and 6 in sy.No.71 of Miyapur (V) in response to Lr.No.C2/6263/2001, dated 01.11.2001 and Lr.No.C2/6262/2001, dated 03.11.2001 of the District Collector, Ranga Reddy District respectively. It is further submitted that the FTL has to be fixed by the MRO/EE Irrigation Department. Further, it is submitted that no record is available in this office relating to the FTL of Patel Cheruvu. It is not true to say that the Commissioner, Serilingampally Municipality has issued NOC in spite of knowing that the Mandal Revenue Officer, Serilingampally through his Lr.No.B1/1335/2000, dated 30.10.2002 (30.10.2001) had clearly stated that the proposed site for cinema theatre falls under Miyapur Patel Cheruvu FTL limit. The Commissioner, Serilingampally Municipality, is not aware of the said report. It is further submitted that the 10th and 11th respondents have illegally started construction of permanent cinema theatre by raising columns without obtaining prior technical approval from the competent authority i.e., Vice Chairman, HUDA, as required under Section 13 and 14 of A.P. urban Areas (Dev) Act, 1975, and necessary sanction from the respondent Municipality as required under Section 209, 210, 211 and 216 of A.P.M. Act, 1965, for which this respondent Municipality has issued P.O. Notice (show cause notice) No.G/21/UC/MCS/1/2004, dated 24.01.2005 to the 10th and 11th respondents is not satisfactory. After receiving the C.O. notice issued by the respondent Municipality the 10th and 11th respondents have approached the Hon'ble High Court of A.P. and the Hon'ble Court admitted the writ petition and granted interim direction by suspending this office Notice dated 22.03.2005 by an order dated 02.04.2005 in w.P.No.6796 of 2005 filed by M/s. Krishna 70 MM and Narasimha 70 MM theatres and the said case is pending disposal in the Hon'ble High Court."

Thus, the affidavits of the officers concerned clearly reveal that they have no idea whatever on the issue whether the site on which the theatres were proposed to be constructed was in fact part of FTL of Patel Cheruvu or not and the State Government solely based on the NOCs given by them allowed the appeal. The

perfunctory manner in which the Government has considered the issue clearly shows that it has not sensitized itself to the need to protect water bodies in order to preserve and maintain ecological balance. It is a matter of grave concern that people in their quest for earning more and more money are destroying the nature. They are denuding forests, they are destroying wild life, they are flattening hills to extract minerals and they are encroaching into the precious water bodies making them vanish. The executive Government does not seem to have woken up from the hibernation and their supine indifference is threatening the very survival of livingbeings on the earth. Unless the State realizes its responsibilities at least at this late hour, the situation, we are afraid, will become irretrievable.

While emphasizing on the need to protect the water bodies by the State, the Supreme Court in **INTELLECTUALS FORUM, TIRUPATHI v STATE OF A.P. AND OTHERS**[1] held as under:

> "The responsibility of the State to protect the environment is now a well-accepted notion in all countries. It is this notion that, in international law, gave rise to the principle of "state responsibility" for pollution emanating within one's own territories [Corfu Channel Case, ICJ Reports (1949) 4]. This responsibility is clearly enunciated in the United Nations Conference on the Human Environment, Stockholm 1972 (Stockholm Convention), to which India was a party. The relevant Clause of this Declaration in the present context is Paragraph 2, which states:
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> > "The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate."
>
> Thus, there is no doubt about the fact that there is a responsibility bestowed upon the Government to protect and preserve the tanks, which are an important part of the environment of the area."

We have given our anxious consideration to the case. But for the fact that the representationist approached this Court at a stage where the construction of the theatres was already completed, we would have certainly intervened in the matter. The fact however remains that respondent Nos.10 and 11 have completed construction which is not denied by the representationist in his affidavit filed on

22.01.2007, though he disputed the claim made on behalf of respondent Nos.10 and 11 that the letter petition was sent by him four years after the completion of the theatres. Though from the record it appears that the construction of theatres would not have been commenced prior to 06.02.2003 on which date the Joint Collector, on the basis of order dated 21.10.2002 passed by the Government in appeal, reconsidered the application of respondent Nos.10 and 11 and granted No Objection for construction of theatre, we are convinced that by the time the letter was sent by the representationist, which was received by this Court on 13.07.2006, the construction of theatres was completed. In fact, respondent Nos.10 and 11 addressed letters on 01.02.2006 and 01.07.2006 to the Commissioner of Police and Licensing Authority, Cyberabad Police Commissionerate wherein it was mentioned that the construction of theatres was completed. Though we are thoroughly unhappy with the manner in which the Government ignored its responsibility in preventing the constructions which appeared to have been raised on a part of an important water body, we do not feel inclined to make a further probe into the matter for the following reasons.

1. Though there is material on record to show that many patta lands including Sy.No.71 in which the theatres are constructed fell within the FTL of Patel Cheruvu before NOC was granted, there is no conclusive evidence whether and if so to what extent the land on which the two theatres were constructed fell within FTL.
2. There is no dispute that the land on which theatres were constructed was a patta land and purchased by respondent Nos.10 and 11.
3. By the time the letter petition was sent, the construction of theatres was completed at huge cost and interference at this stage will lead to serious adverse consequences, more so respondent Nos.10 and 11 evidently availed huge loan from the Andhra Pradesh State Financial Corporation and in a situation where the theatres are demolished eventually, recovery of these public funds by the APSFC would fall in serious jeopardy.
4. The respondent Nos.10 and 11 have given an undertaking by way of additional counter-affidavit filed on 26.12.2006 to the effect that they will construct a compound wall around the theatres within 15 days in order

to prevent any water entering into the theatre, endangering the safety of the public.

However, having regard to the facts and circumstances, we direct respondent Nos.1 to 7 to take every possible precaution to prevent constructions on water bodies in the twin cities and direct respondent No.1, Government of Andhra Pradesh, to take such steps as to protect and preserve the water bodies in the whole of the State.

Before parting with the case, we would like to mention that at the time of closing the case on 12.02.2007, we dismissed the case with costs of Rs.10,000/- imposed on the representationist. The main reason which prompted us to impose costs was absence of representationist both in the forenoon and in the afternoon, despite adjourning the case at his instance on 22.01.2007. We are however inclined to reconsider this decision and we modify the earlier order by disposing of the writ petition without costs for the reason that the representationist made strenuous efforts to bring to the notice of this Court an important issue of public importance irrespective of whether his intentions were bonafide in doing it or not.

In the result, the writ petition is disposed of in terms of the observations made above.

C.V. NAGARJUNA REDDY, J

G.S. SINGHVI, CJ

Date: 12.02.2007.
Mdaa/es
L.R. Copies to be marked.

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[1] AIR 2006 SC 1350